IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 759 OF 2006

Shri Prakash Murlidhar Holkar
and anr. ....Applicants.

V/s

The State of Maharashtra. ....Respondent.

Mr. Dilip Bodake for the applicants.

Mr. Sandeep Salunke for the complainant.

Ms. S.D. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 1st March, 2006

P.C:

1. Heard the learned Counsel for the applicants, the learned APP for the State and the learned Counsel for the complainant.

2. This is an application for anticipatory bail. The applicants have an apprehension that they are likely to be arrested in connection with an offence punishable under section 306 read with 34 of the Indian Penal Code and under sections 32, 33 and 34 of the Bombay Money Lenders Act.

3. The prosecution case is that the deceased Uttam committed suicide on 27/1/2006 and FIR was lodged

thereafter. It is alleged that the deceased had executed a sale deed in respect of 2 acres of land in favour of the applicants. It is alleged that the applicants are money lenders who are lending money without licence.

4. It is submitted by the learned Counsel appearing on behalf of the applicants that two sale deeds were executed; one was by the wife of the deceased and the another by the deceased himself. In both these deeds, there is a clear reference to the transfer of the land in favour of the applicants for lawful consideration. He submitted that no objection was raised regarding the said sale deeds by the deceased or by his wife and the complaint was filed for the first time after a lapse of two years from the date of execution of the said sale deeds. He submitted that, therefore, there was obviously a delay in filing the complaint against the applicants in respect of the alleged offence. He submitted that, therefore, the applicants cannot be held responsible for the death of the deceased Uttam who had committed suicide. It was secondly submitted that custodial interrogation of the applicants was not necessary and the Sessions Court had erred in rejecting the application on this ground. He submitted that the applicants were ready to hand over

the original sale deeds and co-operate with the police in the investigation of the case and for the said purpose it was not necessary to take them in custody. He further submitted that a civil suit also had been filed, challenging the execution of the said sale deeds. He further submitted that so far as the offences under the Bombay Money Lenders Act are concerned, those offences are bailable offences and the applicants cannot be held responsible for the death of Uttam as the sale deeds did not disclose that there was any money lending transaction between the applicants and the deceased and his wife. He further submitted that so far as applicant No.2 is concerned, he is a father of applicant No.1 and no role had been attributed to him in the entire transaction.

5. The learned APP appearing on behalf of the State, on the other hand, submitted that the deceased had written two letters; one to the Talathi and other to the Police Inspector in which he had specifically mentioned the role played by both the applicants and he submitted that the action, therefore, should be taken against the two applicants. However, before the action could be taken, the deceased committed suicide. Further, the learned APP invited my attention to an agreement which was executed between the applicants

and the deceased wherein it was specifically mentioned that the said transaction was pertaining to money which was given by the applicants to the deceased at the rate of compound interest of 5% per month.

6. I have given my anxious consideration to the submissions made by the learned Counsel for the applicants and the learned APP for the State. In my view, this is not a fit case for grant of an anticipatory bail. Anticipatory bail can be granted in cases where false accusations are made or where no case is made out on the basis of the allegations which are made in the complaint. The law on this point is quite well settled. In the present case, therefore, in my view, prima facie case for grant of an anticipatory bail has not been made out. The submissions of the learned Counsel for the applicants cannot be accepted since the deceased had written two letters; one addressed to Talathi and the other to the Police Inspector explaining the role of the applicants in the aforesaid transaction. Thus, this is a clear indication that the applicants may be responsible for abatement of the offence punishable under section 306 of the Indian Penal Code. The Government also has issued notification directing the concerned authorities to take strict action against

such money lenders who operate in rural areas and dupe the unsuspecting and ignorant farmers which has resulted in number of deaths of farmers all over Maharashtra.

7. Under these circumstances, application for anticipatory bail is rejected.

8. Application is accordingly disposed of.

V.M. KANADE, J.